

# The Jerome N. Frank Legal Services Organization

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## Testimony Concerning S.B. 1015: *An Act Expanding Programs For Veterans in the Judicial Department.*

TESTIMONY OF STEVEN LEVY AND JULIE VEROFF, LAW STUDENT INTERNS,  
VETERANS LEGAL SERVICES CLINIC, YALE LAW SCHOOL

March 3, 2015

Chair Flexer, Chair Hennessy, and distinguished members of the Committee:

My name is Steven Levy and, along with Julie Veroff, I am here on behalf of the Veterans Legal Services Clinic ("VLSC"). Julie and I are students at Yale Law School and members of the VLSC.<sup>1</sup> We are working under the supervision of Professor Michael Wishnie.

S.B. 1015 would require: (1) a separate veterans' docket to be established in each judicial district, and for these dockets to be modeled on the New London veterans' docket; and (2) for the Court Support Services Division ("CSSD") to report on participation and eligibility for certain pretrial diversion programs. VLSC enthusiastically supports the requirement that CSSD report on participation and eligibility for certain pretrial diversion programs. We also believe the program piloted by DMHAS in New London has been very successful and we hope to see it expanded across the state. We do not believe that the establishment of a separate veterans' docket in each judicial district, however, accomplishes this goal of expanding the New London program, and VLSC therefore has reservations about this portion of the bill.

VLSC is glad the Committee is working to reform Connecticut's criminal justice system to accommodate the unique needs of veterans. By enacting reforms such as the Accelerated Pretrial Rehabilitation amendments, enacted by S.B. 114 in 2011, this Committee has changed Connecticut's criminal justice system for the better. We understand that the goal of S.B. 2015 is to support the expansion of the Veterans Jail Diversion program to cover the entire state of Connecticut. If that is correct, VLSC strongly supports that effort. The bill as drafted, however, could be read to support stand-alone veterans' dockets that would function similarly to veterans' courts. VLSC believes specialized veterans' courts or dockets do not well serve veterans, even if their purpose is to facilitate or support the expansion of the Veterans Jail Diversion program.

This testimony will proceed in five parts. First, Ms. Veroff will explain how VLSC supports the data collection facet of the bill. Second, Ms. Veroff will highlight why VLSC is strongly in favor of expanding the Veterans Jail Diversion program throughout the state. Third, I will explain why VLSC believes specialized veterans' courts or dockets do not well serve veterans. Fourth, I will explain that although it is not yet completely clear what this bill's veterans' dockets would look like, if they have certain characteristics, VLSC believes they will not achieve the broader goal of helping veterans entangled in the criminal justice system. Fifth, I will highlight how veterans' dockets are nevertheless superior to another possible alternative, veterans' courts.

Before I begin Part I, I would like to note that much of the information in this testimony was gleaned from interviews with key stakeholders throughout Connecticut on the topics of AR,

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SPD, the Veterans Jail Diversion program, and veterans' courts. VLSC conducted 17 interviews with judges, prosecutors, defense attorneys, veterans, law professors, psychiatrists, and state employees from various parts of the government.

## **Part I: VLSC Supports the Data Collection Facet of the Bill**

The State of Connecticut does not currently do much tracking of veterans within the criminal justice system. For example, CSSD does not keep data on how many veterans use programs such as SDP or AR. In addition, Bail commissioners are currently required to ask individuals if they have served in the military, but are not required to enter that information into the system. This bill would change the state's data collection practices. The data generated through this bill will help inform policy initiatives and reforms in the future.

## **Part II: Why VLSC is Strongly in Favor of Expanding the Veterans Jail Diversion Program Throughout the State**

VLSC is strongly in favor of expanding the Veterans Jail Diversion Program throughout the state of Connecticut. The Veterans Jail Diversion program received high praise from nearly everyone VLSC interviewed. These stakeholders observed that the Veterans Jail Diversion program has been highly effective, and felt its key strengths are that it (1) enables early intervention within the criminal justice process; and (2) expands veterans' treatment options.

The Veterans Jail Diversion Program receives referrals from a broad range of court personnel—judges, prosecutors, public defenders, social workers, judicial marshals—however most referrals originate from bail commissioners. Standard protocol statewide requires bail commissioners to ask defendants, "Did you serve in the military." If the answer is "yes," the bail commissioner reaches out to the jail diversion staff. The program also maintains a daily presence in the courthouse through a liaison who serves as "live consultant" to court personnel interested in connecting veterans to the program.

Though most veterans are diverted post-booking, some veterans are diverted even before the point of arrest. Under the local police department's "crisis intervention model," DHMAS staff assists police officers who encounter individuals experiencing a severe psychotic break. Rather than jail these individuals, DHMAS staff facilitates their admission to the hospital.

After a veteran is identified, the program's staff meets with the veteran to conduct an initial screening interview and explain the Veterans Jail Diversion Program. If the veteran is interested in participating in the program he/she might be released from jail with conditions to comply with the program.

Once out, the veteran meets again with a DHMAS clinician or case manager and a treatment plan is devised. The program carefully generates individualized, "people-centered" solutions rather than generic and easy referrals. Treatment plans can include substance abuse treatment, mental health counseling, and in some severe mental health crisis cases, hospitalization.

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Under this model, veterans have the choice of accessing treatment locally. This eliminates the transportation issues that some veterans encounter when dealing with the VA, which are discussed below. Nearly half of the program participants access VA services and the rest use state, private, or local community providers.

A case manager or clinician is assigned to the veteran. The case manager checks in with the veteran during his/her treatment and reports back to the court. The case manager may also drive the veteran to treatment or court appearances and might locate housing for homeless veterans. Case managers may handle 9-20 cases at a time. Veterans' participation in the program can vary from a couple of months to a year or more.

Because of the program's significant flexibility, the promising preliminary results, and the uniform praise it received from a variety of stakeholders, we enthusiastically support the expansion of the Veterans Jail Diversion program.

## Part III: Why VLSC Has Some Reservations About Veterans' Dockets in General

VLSC has some reservations about veterans' dockets in general for the following reasons, even if they are used to support or facilitate the expansion of the Veterans Jail Diversion program:

1. *In general, specialized dockets are sometimes problematic.*

Since Connecticut is a unified court system, there are no local judges. In this type of system, specialized dockets get in the way. In addition, specialized dockets are difficult to manage, especially for small courtrooms that serve an entire county. Also, it is not clear whether Connecticut's specialized dockets for domestic violence have yielded good results.

2. *Connecticut does not have a high enough concentration of veterans in enough places for veterans' dockets in each jurisdiction to make sense.*

There are too few veterans in some parts of Connecticut to justify having a veterans' docket in each locality. The population of all veterans in each county in Connecticut as of September 30, 2014, was as follows<sup>2</sup>:

County	Veteran Population as of 9/30/14
Hartford, CT	53,705
New Haven, CT	49,620
Fairfield, CT	39,569
New London, CT	26,116
Litchfield, CT	14,623
Middlesex, CT	12,258
Tolland, CT	10,513
Windham, CT	9,738

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The population of male veterans between the ages of 17 and 44, the population that is statistically most likely to become entangled in the criminal justice system, in each county was as follows<sup>3</sup>:

County	Veteran Population (male, aged 17-44) as of 9/30/14
Hartford, CT	7,426
New Haven, CT	6,283
New London, CT	5,427
Fairfield, CT	4,304
Windham, CT	1,745
Tolland, CT	1,690
Litchfield, CT	1,632
Middlesex, CT	1,385

Thus, in many counties, the population of veterans is too small to justify having a veterans' docket.

3. *Veterans' dockets may make veterans feel "above the law."*

Veterans' dockets may prevent veterans from feeling like they should be held accountable for their actions. Although any criminal-justice program that helps veterans simply for being veterans may produce this problem, veterans' dockets seem especially likely to do so.

4. *Veterans' dockets may cause judges and attorneys to become desensitized to veterans' issues and the unique needs of veterans.*

As a result of their involvement in veterans' dockets, judges, prosecutors, and even defense attorneys may become desensitized to veterans' issues and the unique needs of veterans.

5. *Veterans' dockets work against the ultimate goal of criminal justice reform: preventing people from getting arrested or going to court in the first place.*

By virtue of their existence, veterans' dockets work against the ultimate goal of criminal justice reform. That goal is to prevent people from getting arrested or going to court in the first place. But when veterans' dockets exist police, prosecutors, and even defense attorneys may be more willing to bring veterans' into contact with the criminal justice system than they otherwise would be. This is especially true if, as explained in Part II, veterans' dockets are used as a "one-stop-shop" to connect veterans to support and services.

**Part IV: Although it is Not Yet Completely Clear What This Bill's Veterans' Dockets Would Look Like, if They Have Certain Characteristics They May Not Accomplish Their Goal of Helping Veterans Entangled in the Criminal Justice System.**

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It is not yet completely clear what the veterans' dockets this bill would create would look like. But VLSC believes if have any of the following characteristics, they may not well serve the needs of veterans:

1. *They are a "one-stop-shop" for services and support, especially those that condition access to the "one-stop-shop" on a guilty plea.*

As explained in Part I, veterans' dockets are fundamentally at odds with the ultimate goal of criminal justice reform: preventing people from getting arrested or going to court in the first place. That is especially true when veterans' dockets function as a "one-stop-shop" to connect veterans to services and support. That type of veterans' docket creates a strong incentive to get people into court so they can be connected to such services and support. This incentive may influence attorneys and state actors in ways VLSC finds troubling, especially if access to the "one-stop-shop" is conditioned on a guilty plea, which would create a perverse incentive for defendants to plead guilty.

2. *They funnel veterans and soldiers to the VA or to military bases for treatment, even when that is not the best or even a good option for them.*

When veterans' dockets force veterans to go to the VA or a military base on a regular basis to receive treatment, it can disrupt their lives. This is especially true when such veterans live far away from a VA campus or military base. In addition, funneling veterans to the VA or military bases is a problem because other local treatment options might be better for veterans. Moreover, veterans' dockets may have trouble monitoring veteran-defendants because the VA and military bases are often reluctant to share information about the veterans they treat.

3. *They force veterans with PTSD and TBI to regularly come to court.*

If veterans' dockets force veterans to come to court on a regular basis, veterans with PTSD and TBI could suffer major consequences for missing appointments. Veterans with these disabilities may forget about appointments because they often cause memory problems. In addition, veterans with PTSD may avoid appointments if something about their experience at the courtroom triggers their PTSD symptoms. In addition, many veterans with PTSD do not drive, so it will be difficult for them to come to court regularly. And more generally, since veterans with severe PTSD often stay in their homes and do not want to interact with the outside world, they would likely fail to show up for some court appointments.

## **Part V: Why Veterans' Dockets Are Superior to Veterans' Courts**

VLSC recognizes that veterans' dockets are a superior alternative to veterans' courts. Veterans' dockets are better than veterans' courts for five reasons:

1. *Veterans' dockets will not suffer from the same transportation-related problems as veterans' courts.*

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Connecticut's lack of mass transport would prevent veterans' courts from functioning effectively, especially if there was only one centralized veterans' court. Moreover, even if veterans could get to a centralized veterans' court, forcing them to travel long distances would cause its own problems. For instance, victims interested in monitoring the veteran-defendants' rehabilitation would have to travel long distances to get to the veterans' court. In addition, hiring an attorney would be more expensive than usual because the attorney would charge their clients for travel time. Veterans' dockets would not suffer from these transportation-related issues.

2. *Veterans' dockets will not necessarily be staffed by new, inexperienced judges.*

New judges are typically assigned to specialized courts, and these inexperienced judges are less likely to be as sympathetic to veterans or as competent as more experienced judges. But if all judges take turns participating in veterans' dockets, this problem will be eliminated.

3. *Veterans' dockets may be a less significant resource-drain than veterans' courts.*

Setting up a veterans' court is expensive because it requires another set of prosecutors, additional judges, additional clerks, and a new courtroom. In addition, because veterans' courts tend to be funded by restricted federal grants, Connecticut would be unable to redeploy excess labor from its veterans' courts elsewhere. Because veterans' dockets could use existing personnel and infrastructure, and will be funded by the state, they will not suffer from these shortcomings.

4. *If veterans' dockets are created, more judges will develop useful expertises.*

Although veterans' courts are flawed, their judges ultimately develop several skills that help them work with veterans. The judges involved with veterans' courts become familiar with the problems that plague veterans, such as PTSD, TBI, and military sexual trauma. Similarly, these judges become familiar with the agencies, organizations, and individuals that can assist veterans. They may also become fluent in reading DD-214s and other military documents. If all judges participate in veterans' dockets, they will all develop these useful skills that usually only the select few judges that participate in veterans' courts learn.

5. *Veterans' dockets prevent civilians from learning from veterans and vice versa, but to a lesser extent than veterans' courts. Similarly, ghettoizing veterans through veterans' dockets prevents their reintegration, but veterans' courts ghettoize veterans more.*

Veterans' courts prevent civilians from learning from veterans and vice versa. It is important for the general population to see veterans so they can understand and sympathize with them. In addition, it is important for veterans to witness civilians being held accountable for their actions. This enables veterans to understand the consequences they will suffer if they fail to complete the special programs designed to assist them. When veterans are secluded in veterans' courts none of these observations and interactions can occur. Moreover, veterans' courts prevent reintegration by ghettoizing veterans and secluding them from the general population.

These criticisms also apply to veterans' dockets. But they apply to a lesser extent because veterans' dockets are less isolated than veterans' courts.

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Chair Flexer, Chair Hennessy, and distinguished members of the Committee, thank you very much for your time. We would be glad to take any questions you have.

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<sup>1</sup> The views stated here do not purport to represent the opinions of Yale Law School, if any.

<sup>2</sup> Veteran Population, National Center for Veterans Analysis and Statistics, U.S. Dep't of Veterans Affairs, [http://www.va.gov/vetdata/Veteran\\_Population.asp](http://www.va.gov/vetdata/Veteran_Population.asp) (last accessed Mar. 2, 2015).

<sup>3</sup> *Id.*